

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

January 10, 2008

Vice Chairman B. Turnquist called the meeting to order at 4:04 p.m. and roll was taken.

MEMBERS PRESENT: B. Turnquist, L. Spataro, B. Mazade, T. Harryman, B. Larson,
J. Aslakson, S. Warmington

MEMBERS ABSENT: T. Michalski, excused; B. Smith

STAFF PRESENT: L. Anguilm, D. Leafers

OTHERS PRESENT: R. Hilt, 1627 Jefferson; J. Havasi, Niles OH (LaFarge); D. Weikel, LST
Preservation Assoc.; H. Wierenga, Fleis & Vandenbrink; J. Wallen,
New Trend Investments

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of December 13, 2007 be approved, was made by L. Spataro, supported by J. Aslakson and unanimously approved.

NEW BUSINESS/PUBLIC HEARINGS

Hearing; Case 2008-01: Staff-initiated request to amend Section 1901 (Special Land Uses Permitted) of Article XIX, (WM, Waterfront Marine Districts), of the zoning ordinance, to add museums as a special land use in an WM district. L. Anguilm presented the staff report. Currently, museums are allowed only in B-3, Central Business and OSR, Open Space Recreation zoning districts, and then only with a special land use permit. The preamble of the Waterfront Marine district states that the districts “are designed to accommodate boating and water-oriented land and building use along with those activities and services related to harbor and waterway improvements.” Therefore, adding this use seems to compliment other uses already allowed in a Waterfront Marine district, which include marinas, restaurants, and hotels, to name a few. Some of these uses, and others allowed with a special land use permit, add character and attract tourists, and allow our area residents to enjoy more use of our lakefront properties. Adding museums as a special land use in the Waterfront Marine zoning district would allow the Milwaukee Clipper, or any other museum ship, to dock at any port located within a Waterfront Marine zoning district, with whatever conditions Planning Commission would want to impose. It would also allow any other type of museum to locate on any property within a Waterfront Marine zoning district, upon securing a special land use permit from the Planning Commission.

S. Warmington arrived at 4:12 p.m.

B. Larson asked how much area the WM zoning encompassed. L. Anguilm pointed out the areas on the zoning map. T. Harryman asked where the LST fell, regarding use. L. Anguilm stated that it was a legal, non-conforming use.

A motion to close the public hearing was made by T. Harryman, supported by J. Aslakson and unanimously approved.

A motion that the amendments to Section 1901 of Article XIX, WM, Waterfront Marine Districts, of the City of Muskegon Zoning Ordinance to add museums as a special land use in a WM, Waterfront Marine District, be recommended to the City Commission for approval, was made by B. Larson, supported by L. Spataro and unanimously approved.

Hearing: Case 2008-02: Request for a Special Land Use Permit, per section 1901 (#6) of Article XIX of the Zoning Ordinance to allow for a museum ship at the Mart Dock, 560 Mart Street, by Raymond J. Hilt, SS Milwaukee Clipper Preservation, Inc. L. Anguilm presented the staff report. This request is to allow the SS Milwaukee Clipper to dock at the Mart Dock site, contingent on the addition of museums being added as a "Special Land Use" in the WM, Waterfront Marine District, in the previous case. The zoning of the property at 560 Mart Street is WM, Waterfront Marine, as is the property to the southwest. The property to the northeast is zoned B-2, Convenience and Comparison Business, and to the east is B-3, Central Business. The property owners failed to sign the application, as is customary. They are, however, fully aware of the request. Since the proposed use won't require site work, the site plan is rather simple. Parking will be accommodated on the Mart Dock property. If improvements on land are proposed in the future, a site plan amendment would need to be submitted to the Planning Department for approval. The Fire Department has the following conditions of approval: a) Fire Department access is established and maintained, b) remove bollard between building and seawall near the stern of ship, c) add fire hydrant and dry stand pipe system; hydrant shall be located near stern, d) provide Fire Department connection with location to be approved by Chief/Fire Marshall, e) fire access road shall be designed and maintained to support the imposed loads of fire apparatus, not less than 76,000 pounds, f) access shall be maintained during all months of year, g) all standpipe/hose connections inside of ship shall be repaired, inspected, and operational, h) fire protection system shall be operational and comply with NFPA 13, and i) water supply from ship to shore shall be established. The Engineering Department has the following condition of approval: as long as the work is on the boat only and no site work is proposed, the plan is approved; if site work is necessary, then a more detailed plan is needed. The Department of Public Works has no outstanding issues with this request. Staff received a call from the property owner, M. McKee, just prior to the meeting, and he indicated that he was opposed to the request.

B. Larson asked if having the owner's signature on the SUP application was a requirement. L. Anguilm stated that the purpose of getting the signature was to make sure the property owner was aware of the request. She stated that although Mr. McKee had not signed the form, he was aware of the request. J. Aslakson was concerned about the legality of granting the SUP if the property owner was opposed. L. Anguilm stated that she had asked the City Attorney about it but hadn't gotten a response yet. R. Hilt stated that he was not aware of staff's conversation with Mr. McKee, but he was aware that Mr. McKee was unhappy with the City due to a letter he had requested regarding zoning at the Mart Dock. S. Warmington stated that he had seen an article in the newspaper regarding a lease between the Mart Dock and the Clipper preservation group. R. Hilt stated that they did have a signed lease with Mr. McKee. S. Warmington asked if the lease was contingent upon the City agreeing to the letter that was written by Mr. McKee for the City. R. Hilt stated that Mr. McKee requested the letter because he was concerned that his property's zoning could be changed in the future. S. Warmington asked how the LST393 would be affected if this SUP were denied, since that appeared to be used as a museum ship now. B. Mazade stated that the ship's use had evolved over the many years it had been docked there. It was considered a legal non-conforming use, and that would continue. R. Hilt stated that the LST, the Clipper, and the Coast Guard ship were all owned by the preservation group now, and were considered permanently moored ships. He stated that the

Clipper had to move from the spot where it was now located. L. Spataro stated that he appreciated the applicant's dilemma, but the City was being put in the awkward position of being asked to grant a special use permit when the property owner had voiced his opposition to the request. T. Harryman asked if the SUP request for a museum ship was specific to the Clipper. L. Anguilm stated that it was. B. Mazade explained staff's actions to date regarding Mr. McKee's letter, and stated that the letter written by staff should have addressed any concerns regarding the Mart Dock's use. B. Larson asked if the case could be tabled until the upcoming special meeting on January 22. L. Anguilm stated that there was not time to re-notice, but that it would not be required if the public hearing were closed. J. Aslakson concurred with B. Larson that the public hearing be completed at this meeting, with a decision tabled until the January 22 meeting, to give staff time to clarify the questions raised.

J. Havasi asked how setbacks would be applied to a boat. L. Anguilm stated that she didn't know offhand, and would need to research it. L. Spataro explained where the property lines were located. J. Havasi asked if this case and the last one were specific to the Clipper. J. Aslakson stated that they were separate issues, with the first case being a change to the zoning ordinance and the second one being specific to the Clipper. D. Weikel was the president of the LST Preservation Association and explained their history. He stated that their operation was going well and was a positive thing for Muskegon. He was concerned about this issue jeopardizing the LST's use.

A motion to close the public hearing was made by B. Larson, supported by T. Harryman and unanimously approved.

L. Spataro was concerned that no representative of the property owner was present. He asked that a letter be sent to Mr. McKee, requesting that he have a representative attend the January 22 meeting in order to answer questions and clarify any objections they had. B. Larson asked that staff also look into the consequences of granting a SUP without the property owners consent. T. Harryman didn't understand Mr. McKee's concern with granting this SUP, since it would allow added flexibility regarding the use of his property.

A motion that the request for Special Land Use Permit, per Section 1901 of Article XIX of the Zoning Ordinance, to allow a museum ship in a B-3 zoning district at 560 Mart Street, by Raymond Hilt, SS Milwaukee Clipper Preservation LLC, be tabled until the special meeting of January 22, 2008 so that staff can request that a representative of the property owner be present, was made by B. Larson, supported by J. Aslakson and unanimously approved.

Hearing; Case 2008-03: Request to amend the Final PUD for 100 Muskegon Mall for the properties located at 333 W. Western Avenue, to allow for a mixed use of restaurant, office, and retail uses, by Jack Wallen, New Trend Investments, LLC. L. Anguilm presented the staff report. The approval for the final PUD was given by City Commission on February 22, 2005. Uses within existing or newly developed buildings had not yet been determined, but the approval was for "mixed use, residential and commercial". This amendment targets the building that most recently housed the National City Bank when this property was incorporated as part of the Muskegon Mall. The request is to allow for mixed uses, including offices and commercial/retail. Since the building takes up the entire parcel, parking will be accommodated through a shared parking agreement. The agreement was provided to staff and was adequate for the uses presently planned for the building. If a more intense use comes into the building in the future, such as a restaurant, additional parking spaces will need to be provided. No landscape plan is possible on this site, due to the building occupying the entire parcel. The Planning Department requires that the following items be amended on the site plan as a condition of approval: a) provide a vicinity map, b) provide the parcel number of the property, c) indicate existing zoning classification of abutting properties, and d) indicate location of fire lanes, hydrants

and fire lock boxes. The Department of Public Works has the following comment: contact Kelly DeFrench at 724-4184 regarding installation details of 8" water main and water connection fees. The Engineering Department has the following condition of approval: construction area needs to be fenced. The Fire Department has the following conditions of approval: a) submit site plan indicating the locations of all hydrants within the area and construction type proposed for building, b) submit water supply fire flow calculations to the Fire Marshal, and c) key box required for Fire Department access.

There were no other comments received regarding this request, and staff recommends approval with the conditions listed in the staff report.

B. Larson asked if the Historic District Commission had any say in what improvements were made to this building. L. Anguilm stated that they did not, as this was not in a City historic district. H. Wierenga stated that they had 60 parking spaces secured with a shared parking agreement. They wanted to have enough parking available to have a restaurant if they wished. J. Wallen stated that they did not have anything locked in as far as uses, but they are working on several things.

A motion to close the public hearing was made by L. Spataro, supported by T. Harryman and unanimously approved.

A motion that the minor amendment to the Final PUD for 100 Muskegon Mall for properties at 333 W. Western Avenue be approved, pursuant to the determination of compliance with the intent of the City Zoning Ordinance and City Master Land Use Plan, subject to the conditions that 1) all revisions to the site plan listed in #7 of the staff report are completed and approved by the Planning Department, and 2) all conditions of the Fire Department stated in #10 and the Engineering Department in #9 of the staff report are met, was made by S. Warmington, supported by T. Harryman and unanimously approved.

J. Aslakson asked the applicant if he was aware of the conditions listed. J. Wallen stated that he was, and he just had a question about the fencing mentioned in the Engineering comments. L. Anguilm referred him to M. Al-Shatel, City Engineer.

OLD BUSINESS

None

OTHER

Special Meeting – Some of the board members had questions about the memo from the City Attorney regarding the upcoming special meeting. L. Anguilm stated that she would ask the City Attorney to be present for that meeting.

There being no further business, the meeting was adjourned at 5:15 p.m.

dml